



## Senate

General Assembly

**File No. 315**

January Session, 2013

Substitute Senate Bill No. 1040

*Senate, April 3, 2013*

The Committee on Transportation reported through SEN. MAYNARD of the 18th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING COUNTERFEIT AND NONFUNCTIONAL AIRBAGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-106d of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) As used in this section:

4 (1) "Air bag" means a motor vehicle inflatable occupant restraint  
5 system, including all component parts, such as the cover, sensors,  
6 controllers, inflators and wiring, that (A) operates in the event of a  
7 crash, and (B) is designed in accordance with federal motor vehicle  
8 safety standards for the specific make, model and year of the motor  
9 vehicle in which it is or will be installed.

10 (2) "Counterfeit air bag" means a motor vehicle inflatable occupant  
11 restraint system, including all component parts, such as the cover,  
12 sensors, controllers, inflators and wiring, displaying a mark identical

13 or similar to the genuine mark of a motor vehicle manufacturer  
14 without authorization from such manufacturer.

15 (3) "Nonfunctional airbag" means a replacement motor vehicle  
16 inflatable occupant restraint system, including all component parts,  
17 such as the cover, sensors, controllers, inflators and wiring, that (A)  
18 was previously deployed or damaged, (B) has an electric fault that is  
19 detected by the vehicle airbag diagnostic system after the installation  
20 procedure is completed, or (C) includes any part or object, including,  
21 but not limited to, a counterfeit or repaired airbag cover, installed in a  
22 motor vehicle to mislead the owner or operator of such motor vehicle  
23 into believing that a functional airbag has been installed.

24 [(a)] (b) No person shall manufacture, import, install, reinstall, sell  
25 or offer for sale any device with the intent that such device replace an  
26 air bag in any motor vehicle if such person knows or reasonably  
27 should know that such device is a counterfeit air bag, a nonfunctional  
28 air bag or does not meet federal safety requirements as provided in 49  
29 CFR 571.208.

30 (c) No person shall sell or install or reinstall in any vehicle any  
31 device that causes such vehicle's diagnostic system to inaccurately  
32 indicate that such vehicle is equipped with a functional air bag when a  
33 counterfeit air bag, a nonfunctional air bag or no air bag is installed.

34 [(b)] (d) A violation of subsection [(a)] (b) or (c) of this section shall  
35 be deemed an unfair or deceptive trade practice under subsection (a)  
36 of section 42-110b. Each manufacture, importation, installation,  
37 reinstallation, sale or offer for sale shall constitute a separate and  
38 distinct violation.

39 [(c)] (e) Any person who violates subsection [(a)] (b) or (c) of this  
40 section shall be guilty of a class [A misdemeanor] D felony.

41 Sec. 2. Subdivision (16) of section 53a-119 of the general statutes is  
42 repealed and the following is substituted in lieu thereof (*Effective*  
43 *October 1, 2013*):

44 (16) Air bag fraud. A person is guilty of air bag fraud when such  
45 person, with intent to defraud another person, obtains property from  
46 such other person or a third person by knowingly selling, installing or  
47 reinstalling any object, including any counterfeit air bag or  
48 nonfunctional air bag, as such terms are defined in section 14-106d, as  
49 amended by this act, in lieu of an air bag that was designed in  
50 accordance with federal safety requirements as provided in 49 CFR  
51 571.208, as amended, and which is proper for the make, model and  
52 year of the vehicle, as part of the vehicle inflatable restraint system.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2013</i>	14-106d
Sec. 2	<i>October 1, 2013</i>	53a-119(16)

**TRA**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill increases the penalty regarding counterfeit and nonfunctional airbags which is not anticipated to result in a fiscal impact as there have been no violations of this statute to date.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sSB 1040*****AN ACT CONCERNING COUNTERFEIT AND NONFUNCTIONAL AIRBAGS.*****SUMMARY:**

By law, it is a crime for anyone to sell or offer for sale a device intended to replace a motor vehicle air bag if the seller knows or reasonably should know that it does not meet federal safety standards. A violator faces a fine of up to \$2,000, up to one year in prison, or both.

The bill increases the penalty to a fine of up to \$5,000, up to five years in prison, or both and makes it a crime to manufacture, import, install, or reinstall such a device. It additionally makes it a crime, punishable by the increased penalty, to sell, offer for sale, manufacture, import, install, or reinstall a counterfeit or nonfunctional air bag, which the bill defines (see below).

It imposes the same increased penalty on someone who sells, installs, or reinstalls a device that causes a vehicle's diagnostic system to inaccurately indicate it is equipped with a functional air bag when (1) a counterfeit or nonfunctional air bag is installed or (2) no air bag is installed.

By law, selling or offering for sale a device that the seller knows or reasonably should know does not meet federal safety standards is an unfair or deceptive trade practice (see BACKGROUND). Each sale is a separate and distinct violation. The bill also makes the above violations an unfair trade practice and makes each sale, offer for sale, manufacture, importation, installation, or reinstallation a separate and distinct violation.

Under current law, air bag fraud occurs when someone, with intent to defraud another person, knowingly installs or reinstalls an object other than a properly designed air bag. The bill expands air bag fraud to include the sale, installation, or reinstallation of a counterfeit or nonfunctional air bag with intent to defraud. The penalty for air bag fraud depends on the amount charged the person defrauded.

EFFECTIVE DATE: October 1, 2013

## **DEFINITIONS**

### ***Air Bag***

Under the bill, an “air bag” is a motor vehicle inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, that (1) operates in a crash and (2) is designed according to federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

### ***Counterfeit Air Bag***

A “counterfeit air bag” is such a system that displays a mark identical or similar to the genuine mark of a motor vehicle manufacturer without that manufacturer’s authorization.

### ***Nonfunctional Air Bag***

A nonfunctional air bag is a replacement air bag system that (1) was previously deployed or damaged; (2) has an electric fault detected by a vehicle’s air bag diagnostic system after installation; or (3) includes any part or object, including a counterfeit or repaired air bag cover, installed in a motor vehicle to mislead the vehicles’ owner or operator into believing a functional air bag has been installed.

## **BACKGROUND**

### ***Unfair or Deceptive Trade Practice***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice,

investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys' fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating a restraining order.

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute

Yea 34 Nay 0 (03/15/2013)